

REMARKS

By this amendment, claims 1-18, 20-23, 25-30, and 32-60 are pending, in which claims 19, 24 and 31 are canceled without prejudice or disclaimer, and claims 1, 7, 13, 20-22 and 25-30 are currently amended. The amendments incorporate indicated allowable features, therefore do not raise new issues requiring further search. No new matter is introduced, and it is therefore respectfully requested that the present amendment be entered under 37 CFR § 1.116.

The final Office Action mailed June 1, 2005 rejected claims 1, 6-7, 12-13, 18-19, 24, 29 and 34 under 35 U.S.C. § 102 as anticipated by *Wengrovitz et al.* (US Patent Application Publication No. 2004/0205209 A1), and claims 2-5, 8-11, 14-17, 32-33, and 35-60 as obvious under 35 U.S.C. § 103 based on *Wengrovitz et al.*

Applicants appreciate the indication that claims 20-23, 25-28, and 30-31 would be allowable if rewritten in dependent form.

The Specification has been amended to correct discovered informalities.

Applicants have recast claims 20, 21, 22, 25, 26, 27 and 30 independent form. Also, in the interest of advancing prosecution, Applicants have amended independent claims 1, 7, and 13 to incorporate the allowable features of dependent claim 22. Additionally, independent claim 28 has been amended to incorporated allowable features of dependent claim 31 (now canceled).

With respect to the obvious rejection of the independent claims 36 and 52, the Office Action acknowledges that *Wengrovitz et al.* fails to disclose “firewall logic” and “QoS logic.” Instead, the Office Action states such features are “well known in the art as part of network management.” In drawing this conclusion, the Office Action has ignored the basic tenets of obviousness. In rejecting claim under 35 U.S.C. § 103, the Examiner must provide a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 357 F.2d 385, 148 USPQ 721 (CCPA 1966); *In re Freed*, 425 F.

2d 785, 165 USPQ 570 (CCPA 1970). Based upon the objective evidence of record, the Examiner is required to make the factual inquiries mandated by *Graham v. John Deere Co.*, 86 S. Ct. 684, 383 U.S. 1, 148 USPQ 459 (1966). The Examiner is also required to explain how and why one having ordinary skill in the art would have been led to modify an applied reference to arrive at the claimed invention. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). In establishing the requisite motivation, it has been consistently held that both the suggestion and the reasonable expectation of success must stem from the prior art itself, as a whole. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988).

In the case at hand, *Wengrovitz et al.* provides no factual basis for why one of ordinary skill in the art would modify the *Wengrovitz et al.* system (including an IP-PBX 10 and SIP-PBX proxy server 18), particularly when the system employs a data router 330a (FIG. 23). At best, *Wengrovitz et al.* teaches away from deploying the claimed “firewall logic” and “QoS logic” in the IP-PBX 10, as such function would (even assuming, *arguendo*, that a suggestion exists within *Wengrovitz et al.*) would reside in the data router 330a.

Furthermore, Applicant maintains that the Administrative Procedure Act requires the Patent Office to articulate and place on the record the “common knowledge” used to negate patentability. *In re Sang Su Lee*, No. 00-1158 (Fed. Cir., Jan. 18, 2002); *In re Zurko*, No. 96-1285 (Fed. Cir., Aug. 2, 2001).

Based on the foregoing, the obviousness rejection of claims 36 and 52 is untenable. Accordingly, independents 36 and 52, along with claims 37-51 and 53-60, are allowable.

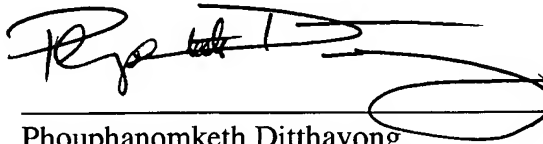
Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If

any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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8/1/05
Date


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